

CONSTRUCTION LIEN ACT (EXCERPT)
Act 497 of 1980

570.1108 Physical improvements to real property; notice of commencement; form; recording; contents of notice; blank notice of furnishing; incorrect information in notice; providing copy of notice and blank notice of furnishing form to subcontractor, supplier, or laborer upon request; posting copy of notice; failure of owner, lessee, or designee to record, provide, or post required notice; failure of contractor or subcontractor to provide notice; section inapplicable to residential structure improvement.

Sec. 108. (1) Before the commencement of any actual physical improvements to real property, the owner or lessee contracting for the improvements shall record in the office of the register of deeds for each county in which the real property to be improved is located a notice of commencement, in the form set forth in this section. If all improvements relate to a single project only 1 notice of commencement need be recorded. A subsequent notice of commencement need not be recorded for an improvement to any real property which currently has a notice of commencement recorded in the office of the register of deeds if that recorded notice of commencement contains the same information as the subsequent notice of commencement.

(2) The notice of commencement shall contain the following information:

(a) The legal description of the real property on which the improvement is to be made. A description conforming to section 212 or 255 of Act No. 288 of the Public Acts of 1967, being sections 560.212 and 560.255 of the Michigan Compiled Laws, shall be a sufficient legal description.

(b) The name, address, and capacity of the owner or lessee of the real property contracting for the improvement.

(c) The name and address of the fee owner of the real property, if the person contracting for the improvement is a land contract vendee or lessee.

(d) The name and address of the owner's or lessee's designee.

(e) The name and address of the general contractor, if any.

(f) The following statement:

"To lien claimants and subsequent purchasers:

Take notice that work is about to commence on an improvement to the real property described in this instrument. A person having a construction lien may preserve the lien by providing a notice of furnishing to the above named designee and the general contractor, if any, and by timely recording a claim of lien, in accordance with law.

A person having a construction lien arising by virtue of work performed on this improvement should refer to the name of the owner or lessee and the legal description appearing in this notice. A person subsequently acquiring an interest in the land described is not required to be named in a claim of lien.

A copy of this notice with an attached form for notice of furnishing may be obtained upon making a written request by certified mail to the above named owner or lessee; the designee; or the person with whom you have contracted."

(g) The name and address of the person preparing the notice.

(h) An affidavit of the owner or lessee or the agent of the owner or lessee which verifies the notice.

(3) Each copy of the notice of commencement shall have a blank notice of furnishing as described in section 109 attached to it. The blank notice of furnishing shall be easily detachable from the copy of the notice and need not be recorded.

(4) Incorrect information contained in the notice of commencement furnished by or for an owner or lessee shall not affect adversely the rights of a lien claimant as against the property of that owner or lessee.

(5) The owner, lessee, or designee, within 10 days after the date of mailing of a written request by certified mail from a subcontractor, supplier, or laborer, shall provide a copy of the notice of commencement, together with an attached blank notice of furnishing form, to the subcontractor, supplier, or laborer requesting a copy of the notice of commencement.

(6) A contractor who has been provided with a notice of commencement from the owner, lessee, or designee, within 10 days after the date of mailing of a written request by certified mail from a subcontractor, supplier, or laborer who has a direct contract with the contractor, shall provide a copy of the notice of commencement, together with an attached blank notice of furnishing form, to the subcontractor, supplier, or laborer requesting a copy of the notice of commencement.

(7) A subcontractor who has been provided with a notice of commencement from the owner, lessee, designee, contractor, or subcontractor, within 10 days after the date of mailing of a written request by certified mail from a subcontractor, supplier, or laborer who has a direct contract with the subcontractor, shall provide

a copy of the notice of commencement, together with an attached blank notice of furnishing form, to the subcontractor, supplier, or laborer requesting a copy of the notice of commencement.

(8) The owner, lessee, or designee shall post and keep posted a copy of the notice of commencement in a conspicuous place on the real property described in the notice during the course of the actual physical improvement to the real property.

(9) The owner, lessee, or designee shall provide a copy of the notice of commencement to the general contractor, if any. Failure of the owner, lessee, or designee to provide the notice of commencement to the general contractor shall render the owner or lessee liable to the general contractor for all actual expenses sustained by the general contractor in obtaining the information otherwise provided by the notice of commencement.

(10) Failure of the owner, lessee, or designee to record the notice of commencement, in accordance with this section, shall operate to extend the time within which a subcontractor or supplier may provide a notice of furnishing, as described in section 109, until 20 days after the notice of commencement has been recorded.

(11) Failure of the owner, lessee, or designee to provide, upon written request, the notice of commencement, in accordance with this section, shall operate to extend the time within which a subcontractor or supplier may provide a notice of furnishing, as described in section 109, until 20 days after the notice of commencement actually has been furnished to the subcontractor or supplier.

(12) Failure of the owner, lessee, or designee to record the notice of commencement, in accordance with this section, shall operate to extend the time within which a laborer may provide a notice of furnishing, as described in section 109, until 30 days after the notice of commencement has been recorded, or until the time in which to provide the notice of furnishing in accordance with section 109 expires, whichever is later.

(13) Failure of the owner, lessee, or designee to provide the notice of commencement, in accordance with this section, shall operate to extend the time within which a laborer may provide a notice of furnishing, as described in section 109, until 30 days after the notice of commencement has been provided, or until the time in which to provide the notice of furnishing in accordance with section 109 expires, whichever is later.

(14) Failure of the owner, lessee, or designee to post or keep posted a copy of the notice of commencement as provided in subsection (8) shall render the owner or lessee liable to a subcontractor, supplier, or laborer who becomes a lien claimant for all actual expenses sustained by the lien claimant in obtaining the information otherwise provided by the posting.

(15) Failure of a contractor, who has been provided with a notice of commencement from the owner, lessee, or designee, to provide the notice of commencement upon the request of a lien claimant who has a direct contract with the contractor for an improvement to property shall render the contractor liable to the lien claimant for all actual expenses sustained by the lien claimant in obtaining the information otherwise provided by the notice of commencement.

(16) Failure of a subcontractor, who has been provided with a notice of commencement from the owner, lessee, designee, contractor, or subcontractor to provide the notice of commencement upon the request of a subcontractor, supplier, or laborer who has a direct contract with the subcontractor shall render the subcontractor liable to such subcontractor, supplier, or laborer for all actual expenses sustained by the subcontractor, supplier, or laborer in obtaining the information otherwise provided by the notice of commencement.

(17) If the owner, lessee, or designee fails to provide, record, and post the notice of commencement as provided in this act and if, after the first actual physical improvement, the contractor by certified mail makes a written request to the owner, lessee, or designee to provide, record, and post the notice of commencement and the owner, lessee, or designee fails within 10 days after receipt of the request to do so, the owner or lessee shall be barred from requiring the contractor to hold the owner or lessee harmless from liens of lien claimants to the extent such lien claims could have otherwise been avoided through proper payment, had such request been complied with. If the contractor pays a valid lien claim at the direction of the owner, lessee, or designee after the owner, lessee, or designee has failed to comply with this section, the owner or lessee shall be liable to the contractor to the extent the lien claim could have otherwise been avoided through proper payment had such request been complied with. This subsection shall not apply if the lien claimant appears on a sworn statement provided to the contractor and the claim of the lien claimant appearing on the sworn statement could have been avoided had payment been made in accordance with the sworn statement.

(18) This section shall not apply to an improvement to a residential structure.

History: 1980, Act 497, Eff. Jan. 1, 1982;—Am. 1981, Act 191, Eff. Jan. 1, 1982;—Am. 1982, Act 17, Eff. Mar. 1, 1982.